This is even more troubling when viewed in the context of what the administration is doing to capture theater missile defense systems under the ABM Treaty. The administration has shown a willingness, if not an eagerness, to include detailed performance limitations on theater missile defense systems. Under the guise of clarification, the administration has come up with nothing short of a new treaty regulating theater missile defenses.

The administration's overall approach to the ABM Treaty poses three overlapping problems, which might be viewed as near-term, mid-term, and long-term problems. Let me address each of these in turn and offer what I believe to be logical and achievable solutions.

In the near-term, the United States must respond to an expanding array of theater ballistic missile threats by developing and deploying highly effective theater missile defenses. These threats are an undeniable and salient part of the new security environment. Thanks to the efforts of U.S. industry and our military services, we are well positioned to acquire highly effective theater missile defenses and to allow these capabilities to grow along with the threat.

Unfortunately, the administration's current approach threatens to preclude promising theater missile defense options and establish an artificial technological ceiling on the growth of those systems that we do deploy. This approach is strategically unwise and legally unnecessary.

The solution to this problem is relatively straightforward. The ABM Treaty simply states that non-ABM systems may not be given capabilities to counter strategic ballistic missiles and may not be tested in an ABM mode. Nothing in the treaty talks about the performance of non-ABM systems and it would be very unwise for us to get into the business of regulating these systems now.

The answer is simply to define what a strategic ballistic missile is and to establish as a matter of U.S. policy or law that theater missile defense systems comply with the ABM Treaty unless they are actually tested against a strategic ballistic missile. A commonly used definition of a strategic ballistic missile, which the United States and Russia have already agreed upon, is a missile that has a range greater than 3,500 kilometers or a velocity in excess of 5 kilometers per second. If this definition were used, the United States and Russia would be free to develop and deploy a wide range of highly effective theater missile defense systems without having fundamentally altered the letter or intent of the ABM Treaty.

Even if we take this step, however, we will still be faced with a mid-term problem. U.S. territory will inevitably face new ballistic missile threats, which our theater missile defense systems are not being designed to counter. North Korea already has an ICBM program in development and other countries will almost certainly be able to exploit readily available technology in order to acquire such capabilities. The administration is simply not preparing adequately for this threat.

If the United States is to deal with this problem in an effective manner, the ABM Treaty will have to be altered to allow for the deployment of a robust national missile defense system. While we can begin immediately with the development of a national defense system that is in compliance with the ABM Treaty, eventually we will need relief from the treaty. This will be necessary in order to cover all Americans adequately and equally. Deployment of several ground-based missile defense sites, perhaps supplemented by enhanced mobile systems, could provide a limited, yet comprehensive defense of the United States. This could be achieved with relatively modest changes to the ABM Treaty, changes that would not undermine United States or Russian confidence in their deterrent forces.

But even if we accomplish this goal, we would still be left with a long-term problem having to do with the fundamental purpose of the ABM Treaty. Ultimately, if the United States and Russia are to establish normal relations and put the cold war behind them, they will have to do away with the doctrine of mutual assured destruction, which lies at the heart of the ABM Treaty. This can and should be a cooperative process, one that leads to a form of strategic stability more suited for the post-cold-war world. Such a form of stability might be called mutual assured security and should be based on a balance of strategic offensive forces and strategic defensive forces. We must once and for all do away with the notion that defense is destabilizing and that vulnerability equals deterrence.

If the United States and Russia are serious about reducing their strategic nuclear forces to levels much below those contained in the START II agreement, we must be able to fill the void with missile defenses. We can do this cooperatively with Russia and other concerned parties, but we must make it clear that the United States is intent on evolving away from an offense-only policy of deterrence. We will undoubtedly require strategic nuclear forces for the foreseeable future to deter a broad range of threats, but in a world of diverse and unpredictable threats, we can no longer rely on these exclusively.

Mr. President, I hope the administration will reconsider the range of problems I have discussed today. I believe that there are reasonable solutions within reach, if only we seek them. An incremental approach that deals with these problems in phases may facilitate cooperation and help wean both sides away from the comfortable yet outdated patterns of the cold war.

Mr. President, I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

EXTENSION OF MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent for an extension of morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

LEGAL REFORM

Mr. FRIST. Mr. President, I rise today to discuss the need for legal reform in America. Our civil justice system is broken. The changes in our tort law system that were introduced 30 years ago had merit, but like many other aspects of our society, what began as a good idea has been the subject of ceaseless expansion and is now totally out of hand. We are now by far the most litigious country on Earth, and we are paying a huge price as the result.

Mr. President, I come to this issue from a different perspective than most of my colleagues. I am not a lawyer. I am a doctor. I have seen firsthand day in and day out what the threat of litigation has done to American medicine. I have watched my colleagues every day order diagnostic tests—CT scans, blood tests, MRI scans, electrocardiograms—that were many times costly and unnecessary for the good of the patient. They were ordered for one simple reason—to create a paper trail to protect them in the event a lawsuit would ever be filed. It is called defensive medicine, and it happens every day in every hospital throughout America. It alters the practice of medicine and drives the cost of health care higher and higher.

Mr. President, I have also treated patients who were injured by allegedly defective products or in automobile accidents, and I have watched as their families were contacted by lawyers, urging them to sue before anyone knew the real facts of the accident.

Mr. President, I know we will face stiff opposition, but changes must be made in our legal system. It is costing us billions of dollars each and every year and, perhaps more importantly, it is turning us into a nation of victims.

Our product liability laws are a particular area in need of reform. Our present system costs this Nation between $80 and $120 billion a year. A 1993 Brookings Institution survey found that pain and suffering awards alone cost American consumers $7 billion each year.

Mr. President, 50 to 70 percent of every dollar spent on products liability today is paid to lawyers.

What really is the problem? It is fashionable to talk about the big verdict cases, cases like the customer at McDonald's who spilled hot coffee in her lap, or the fleeing felon in New